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7

8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,	)	No. CR-07-00793 CW
	)	
12 Plaintiff,	)	<b>STIPULATION AND [PROPOSED]</b>
	)	<b>ORDER CONTINUING CASE AND</b>
13 vs.	)	<b>EXCLUDING TIME</b>
	)	
14 JOSE JESUS MARTINEZ,	)	Current Date: March 5, 2008
	)	Requested Date: March 26, 2008
15 Defendant.	)	
_____	)	

16

17 This matter is set for status on March 5, 2008. Mr. Martinez is charged with multiple  
18 counts of possession of narcotics for sale, and one count of possession of ammunition. He is in  
19 custody. Although the government has provided much of the discovery to the defense, some  
20 discovery is not yet available. Specifically, government does not yet have all of the lab reports,  
21 and it does not yet have the DVDs of the alleged transactions between Mr. Martinez and the  
22 government. The government is aware of the discovery gaps and is working to provide the  
23 remaining discovery as quickly as possible. Additionally, a plea agreement has been offered by  
24 the government, and the parties believe that additional time will further negotiations of a pre-trial  
25 disposition.

26 Consequently, the parties jointly stipulate and request that this matter be continued to

1 Wednesday, March 26 at 2:00 p.m., so that the defense has an opportunity to review all of the  
 2 discovery before the next court appearance, and that the parties may continue plea negotiations.

3 In addition, the parties stipulate and request that time be excluded between March 5, 2008  
 4 and March 26, 2008 for effective preparation of counsel, so that the defense can receive and  
 5 review all of the discovery. The parties agree that the ends of justice served by the continuance  
 6 requested herein outweigh the best interest of the public and the defendant in a speedy trial,  
 7 because the failure to grant the continuance would deny counsel for the defendant the reasonable  
 8 time necessary for effective preparation, taking into account the exercise of due diligence. Time  
 9 should therefore be excluded pursuant to 18 U.S.C. §§ 3161(h)(1)(F), and § 3161(h)(8)(A) and  
 10 (B)(iv).

11  
 12 02/25/08

13 Date

/s/

Rebecca Sullivan Silbert  
 Counsel for defendant Jose Jesus Martinez

14  
 15  
 16 02/25/08

17 Date

/s/

Daniel Kaleba  
 Assistant United States Attorney

18  
 19 I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
 20 “conformed” signature (/S/) within this e-filed document.

21 **ORDER**

22  
 23 Based on the reasons provided in the stipulation of the parties above, the Court continues  
 24 this matter to March 26, 2008 at 2:00 p.m. The Court further finds that the ends of justice served  
 25 by the continuance requested herein outweigh the best interest of the public and the defendant in  
 26

1 a speedy trial because the failure to grant the continuance would deny the counsel for the  
2 defendant the reasonable time necessary for effective preparation, taking into account the  
3 exercise of due diligence. The Court makes this finding because complete discovery has not yet  
4 been provided to the defense and because of the ongoing discussions between the parties.

5 Based on these findings, IT IS HEREBY ORDERED THAT the above-captioned matter  
6 is continued to March 26, 2008 at 2:00 p.m., and that time is excluded from March 5, 2008 to  
7 March 26, 2008 pursuant to 18 U.S.C. §§3161(h)(1)(F) and (h)(8)(A) and (B)(iv).

8  
9 IT IS SO ORDERED.

10  
11  
12 \_\_\_\_\_  
13 Date

\_\_\_\_\_  
Honorable Claudia Wilken  
Judge, United States District Court  
Northern District of California